



Washington State Office of Civil Legal Aid

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To: Civil Legal Aid Oversight Committee
Washington State Access to Justice Board

From: Jim Bamberger, Director

Re: Quarterly Report for the Period July – September 2006

Date: September 20, 2006

Pursuant to RCW 2.53.020(3)(c), please find below the written report of the Director of the Office of Civil Legal Aid for the quarter ending September 30, 2006. During the present quarter, the Office of Civil Legal Aid:

- Developed the OCLA's FY 2007-09 biennial budget
- Participated on the Board for Judicial Administration's (BJA) Court Funding Implementation Committee and worked with staff of the BJA, Administrative Office of the Courts (AOC) and Office of Public Defense (OPD) to define and develop communication strategies to position the Justice in Jeopardy effort for the coming legislative session
- Worked with Civil Legal Aid Oversight Committee members and others to conduct informational meetings in Aberdeen, Wenatchee and Port Angeles to introduce the Office of Civil Legal Aid and the Civil Legal Aid Oversight Committee and to discuss the civil legal needs of low income people, the unique challenges facing legal aid providers serving rural areas and the implications of the ATJ Board's State Plan.
- Staffed and facilitated meetings of Civil Legal Aid Oversight Committee working groups focused on (a) coordinating Oversight Committee member involvement in efforts to educate legislators about the OCLA FY 2007-09 budget request, and (b) establishing a protocol for developing recommendations relating to state-funded civil legal aid services consistent with RCW 2.53.010
- Staffed and managed the process to define functional and technical requirements of a new, statewide case management system and develop an RFP that will go out to prospective solution providers in early October
- Participated on the ATJ Board's State Plan Oversight Committee
- Consulted with members of Northwest Justice Project's Board of Directors and their executive search consultants with respect to NJP's Director search process
- Continued to manage the contracts with NJP and the Washington State Grange

Each of these areas of activity is discussed below.

1. Proposed FY 2007-09 Biennial Budget

RCW 2.53.020(3)(d) requires the Director of the Office of Civil Legal Aid to develop a biennial budget for state-funded civil legal aid services. At the June 9, 2006 meeting of the Civil Legal Aid Oversight Committee, the Director of the Office of Civil Legal Aid presented a draft budget outline and proposed budget strategy. The outline and strategy described the funding increases that were being considered for submission to the Legislature and the rationale for such increases.¹ As outlined at the meeting, the proposed objectives were to: (a) ensure continuity of current levels of client service; (b) achieve minimum levels of legal aid presence in areas of rural Washington state where clients have no meaningful place to turn for help; (c) achieve geographic equity of client service capacity throughout the state consistent with the requirements of RCW 2.53.030(4) and the revised State Plan; and (d) expand centralized client intake, advice and referral capacity King County which is not currently served by NJP's CLEAR system. Following extended discussion, the Oversight Committee generally endorsed the budget outline and preliminary budget figures and encouraged the Director of the Office of Civil Legal Aid to finalize and submit a budget recommendation that was consistent with governing statutory requirements and that furthered the Access to Justice Board's recently revised *State Plan for the Delivery of Civil Legal Aid in Washington State*.

Since the meeting, the OCLA Director met with representatives of the fiscal and policy divisions of the Office of Financial Management (OFM), staff members at the House Appropriations and Senate Ways and Means Committees, representatives of the Equal Justice Coalition, Washington State Bar Association, Administrative Office of the Courts and other stakeholders. Based on constructive input received, final budget documents were developed for submission to OFM. (Tab A-1) These include (1) an Agency Introduction, (2) a Maintenance Level Budget Decision Package requesting \$505,250 to address known and measurable increases in Northwest Justice Project's salary, benefits and leasehold costs, (3) a Maintenance Level Budget Decision Package transferring funds from the Equal Justice Sub-Account of the Public Safety and Education Account (PSEA) to the state general fund; and (4) a Policy Level Budget Decision Package requesting \$4,761,240 in additional funds for general civil legal aid capacity enhancements designed to meet the geographic proportionality requirements of RCW 2.53.030, achieve minimum presence in rural Washington as contemplated by the ATJ Board's Revised State Plan, expand unified intake, advice and referral services to King County.

As required, these budget documents will be submitted to OFM on October 1, 2006. They are non-revisable by the Governor and will be carried forward intact into the Governor's proposed FY 2007-09 budget.

¹ These documents were included behind Tab A-4 of the Meeting Materials.

2. Court Funding Task Force's Justice in Jeopardy Effort

Upon adoption of the 2004 Report of the Court Funding Task Force and its recommendation that the state significantly increase its commitment to the operation of trial courts and related functions – including indigent criminal defense and civil legal aid – the Board for Judicial Administration established a Court Funding Task Force Implementation Committee. Comprised of members of the original Court Funding Task Force and expanded to include representatives from the indigent defense, civil legal aid and CASA communities, this Committee developed and executed the initial phase of what has become known as the “Justice in Jeopardy” (JIJ) initiative. The IJJ initiative promoted an aggressive and successful legislative agenda in the 2005 Legislature. The 2005 IJJ effort resulted in:

- Passage of legislation (E2SSB 5454) increasing a range of filing fees and related costs which were designed to generate \$12 million in new state funding and more than \$18 million in funding for local counties, cities and law libraries
- Establishment of a separate Equal Justice Sub-Account into which the state's share of the fee increases would be deposited and from which funds could only be appropriated for district and elected municipal court judicial salaries, criminal indigent defense enhancements, representation of parents in juvenile dependency proceedings, and civil legal aid
- Appropriation of state funds for a share of district and elected municipal court judges salaries and creation of local Trial Court Improvement Accounts to underwrite a range of trial court improvements at the local level.
- Significant increases in funding criminal indigent defense, parents representation and civil legal aid
- Passage of legislation (HB 1542) establishing standards for indigent criminal defense
- Passage of legislation (HB 1747) establishing and moving responsibility for administration of civil legal aid appropriations to an independent judicial branch Office of Civil Legal Aid and establishing a bipartisan Civil Legal Aid Oversight Committee.

The IJJ initiative was successfully carried forward into the 2006 Supplemental Session. Substantial new funding was made available for indigent criminal defense and parents representation services administered by the Office of Public Defense, civil legal aid services to indigent survivors of domestic violence, and funding for a pilot jury project designed to expand greater citizen participation in response to jury calls.

The coordinated effort to speak with a unified voice and promote core judicial branch needs will continue into the 2007 legislative session under the guidance of the Board for Judicial Administration's Court Funding Task Implementation Committee. This year the effort will include the following legislative requests:

- \$5.4 million for the Office of Civil Legal Aid to maintain current delivery capacity, achieve minimum presence in rural areas and underwrite expansion of unified intake, advice and referral in King County

- \$19 million for the Office of Public Defense (OPD) to achieve full funding of indigent criminal defense improvements consistent with the requirements of HB 1542
- \$16 million to complete expansion of OPD's parents representation program
- \$13.6 million to expand CASA services so that there will be a CASA volunteer for all 10,000 children in the juvenile dependency system
- \$7.8 million to the Administrative Office of the Courts for the state to assume a share of responsibility to underwrite the cost of certified and registered language interpreters, translate pattern forms and develop and implement local Limited English Proficiency (LEP) plans.

The OCLA Director has worked closely with representatives of the Office of Public Defense, the Board for Judicial Administration, the Administrative Office of the Courts and other stakeholders to develop effective approaches to promoting this unified legislative agenda and effectively communicate the importance of adequate levels of state to ensure the effective operation of the trial courts and related court functions. The Committee has developed a Judge's Resource Guide and a Stakeholder's Resource Guide will be published shortly. BJA Executive Director, Jeff Hall, will provide copies of the Stakeholder's Resource Guide at the September 29, 2006 Oversight Committee meeting.

3. Community Meetings in Aberdeen, Wenatchee and Port Angeles

The Office of Civil Legal Aid and individual members of the Civil Legal Aid Oversight Committee organized and conducted presentations to bench, bar and community leaders in Aberdeen, Wenatchee and Port Angeles. These meetings were designed to introduce the Office of Civil Legal Aid and the Civil Legal Aid Oversight Committee generally, and to discuss the civil legal needs of low income people, the unique challenges facing legal aid providers serving rural areas and the implications of the ATJ Board's State Plan.

The meeting in Aberdeen was organized by Oversight Committee and Aberdeen attorney Thomas Brown. On July 20, 2006 more than 30 members of the Grays Harbor and Pacific County Bar Associations met in Aberdeen to hear presentations from Chief Justice Gerry Alexander, ATJ Board staff director Joan Fairbanks, Equal Justice Coalition education director Sara Zier and Northwest Justice Project attorney Meagan MacKenzie. The meeting generated substantial enthusiasm for the prospect of establishing a legal aid presence in Grays Harbor and Pacific Counties and participating in the ATJ Board's regional planning effort. As Tom Brown reported in his letter of August 1, 2006 (Tab A-3) "All in all, it appeared to be a very successful outing that accomplished the goals of educating and motivating the local attorneys and the organized Bar Associations of the two counties."

The Wenatchee meeting was convened by Oversight Committee Chair, Judge Lesley Allan, on September 12, 2006. About 25 local bar, human services and legal aid representatives joined Judge Allan and OCLA Director Jim Bamberger for a discussion about civil legal needs and legal aid delivery, planning and funding issues. In addition to the aforementioned participants, the meeting was also attended by Sen. Linda Parlette (R-Wentachee), Rep. Mike Armstrong (R-Wentachee) and a representative from Rep. Cary Condotta's (R-Wentachee) staff. The

presentation followed a general PowerPoint outline (Tab A-4) and included thought provoking presentations by Judith Lurie, Senior Attorney with Northwest Justice Project's North Central Washington office and John Brett, Executive Director of the Chelan-Douglas County Bar Association's Volunteer Attorney Services program.

A third meeting is scheduled for Port Angeles on Friday, September 22, 2006. This meeting will focus on the ATJ Board's revised State Plan, the OCLA budget proposal, and challenges facing the local community which has not had a local legal aid presence since 1982. Participants will include Oversight Committee member, Judge Mark Huth, WSBA Immediate Past-President, Brooke Taylor, Joan Fairbanks (representing the ATJ Board), Legal Foundation Executive Director, Caitlin Davis-Carlson, Sara Zier from the EJC, Patrick McIntyre from the Northwest Justice Project and a number of invited local bar and community leaders. Judge Huth and Jim Bamberger will report on this meeting at the September 29th Oversight Committee meeting.

4. Oversight Committee Working Groups

During the most recent quarter, Judge Allan established two working groups to discuss and develop recommendations regarding:

- The Oversight Committee's involvement in educating legislators and local bench, bar and community leaders about and supporting the OCLA budget request. (Members include Judge Allan, Rep. Rodne, Tom Brown and Judge Huth)
- The Oversight Committee's role in carrying out its statutory authority to make recommendations to the Supreme Court, the Legislature and the Access to Justice Board about matters relating to the provision of state-funded civil legal aid services. (Members include Judge Allan and Barbara Clark)

The OCLA Director staffed these work groups. Meetings were held amongst work group members. In addition, representatives of the work group looking at the role of the Oversight Committee in enhancing understanding of and the need for the OCLA budget request met with representatives of the Equal Justice Coalition to discuss the respective roles and responsibilities of each body. The work group looking at developing a protocol for considering and making recommendations regarding state-funded civil legal aid met with representatives of the Access to Justice Board to discuss the respective roles of and how to respect the prerogatives of each body without resulting in counterproductive duplication and/or competing efforts. A report from each of the workgroups will be made at the September 29, 2006 meeting of the Civil Legal Aid Oversight Committee.

5. Statewide Case Management System (CMS)

As noted in the most recent quarterly report, one of OCLA's initial accountability initiatives is to facilitate the movement of all state-funded legal aid providers to a common case management system (CMS). This new CMS is required to (a) ensure consistency of data collection, management and reporting necessary for fiscal and administrative accountability, ensuring

statutory and regulatory compliance and facilitating effective oversight and (b) achieve new efficiencies in client service delivery.

Following the appropriate state process for securing competitive bids, the Office of Civil Legal Aid retained the services of MTG Management Consultants, LLP to help develop the functional, technical and related requirements of a unified statewide CMS. MTG was also retained to translate these requirements into a formal Request for Proposal and to provide assistance to the OCLA in evaluating responses to the RFP and selecting a vendor.

The Director of the Office of Civil Legal Aid established a 10-person Technical Advisory Group (TAG) made up of individuals representing legal aid providers, administrators, planners and funders. A comprehensive survey was developed and completed and two full meetings were held with the TAG. In addition, both the OCLA Director and MTG project staff consulted with many people around the country who have expertise and/or recent experience with selecting a CMS for a multi-program legal aid system. In the end, a final set of functional and technical requirements was developed (Tab A-5) and is being incorporated into a formal RFP. The OCLA Director has established a small procurement team made up of representatives from the TAG. Members of this procurement team will review the final RFP, review proposals submitted in response, conduct site visits as appropriate to test different CMS solutions and evaluate the capability of CMS solution providers. The RFP is scheduled to be issued on October 2, 2006, with a return date of November 17, 2006. Bid review will occur between November 27, 2006 and December 15, 2006, with final contract execution scheduled for on or around January 2, 2007.

6. Participation on the Access to Justice Board's State Plan Oversight Committee

Following adoption of the revised State Plan in May, the Access to Justice Board established a standing committee to oversee its implementation. The State Plan Oversight Committee is chaired by ATJ Board member, Greg Dallaire (who also serves as the ATJ Board's liaison to the Civil Legal Aid Oversight Committee). The Director of the Office of Civil Legal Aid was asked to serve on this committee. The Committee is focused initially on ensuring effective implementation of the first phase or regional delivery planning required by the revised State Plan which is scheduled to be completed by December 31, 2006. To assist local stakeholders, the ATJ Board hired a full-time regional planning consultant, Lynn Greiner. Ms. Greiner is in the process of developing a planning template and resource data for all 19 planning and service delivery regions. A representative from the State Plan Oversight Committee will provide a brief report to the Oversight Committee at its meeting on September 29, 2006.

7. Northwest Justice Project Executive Director Search Process

The Director of the Office of Civil Legal Aid was asked to and did provide input to the NJP Board and executive search consultants on the job profile, professional characteristics and process by which the NJP Board would select and hire a new Executive Director. An excellent profile was developed, a wide-ranging national search conducted, and the NJP Board selected César Torres as its next Executive Director. A copy of Mr. Torres' resume was circulated by e-mail to the Oversight Committee shortly following his selection. Mr. Torres officially begins his duties on October 30th. NJP's founding Director, Patrick McIntyre has agreed to stay on and

assist Mr. Torres during the first couple of months of his transition. Both Mr. Torres and Mr. McIntyre will attend the Oversight Committee's September 29, 2006 meeting.

8. Contract Administration

The Office of Civil Legal Aid administers two principal contracts: (1) a master contract with the Northwest Justice Project, and (2) a contract with the Washington State Grange for the administration and operation of an Alternative Dispute Resolution System for disputes between agricultural employers and employees.

- **NJP Contract.** The Office of Civil Legal Aid has been working with NJP to restate the work plan set forth in the current contract to reflect expectations outlined in the revised State Plan, including NJP's role in staffing and supporting essential statewide support capacities, and to define with more particularity benchmarks and goals to be realized through the provision of civil legal aid services to eligible clients in areas of legislatively authorized legal representation. In addition, the OCLA Director will be conducting a biennial fiscal and regulatory review of NJP's activities. This will involve on-site records review and discussions with key fiscal and administrative staff at NJP's central administrative offices (which is scheduled for October 25, 2006), as well as visits to NJP field offices (two of which will occur prior to January 1, 2007, with three more to follow prior to June 30, 2007). The objectives are to ensure NJP's full and complete compliance with all rules, requirements and limitations relating to the provision of civil legal aid with state-appropriated funding and to gain better insight into the manner by which NJP staff prioritize and deliver civil legal aid services to eligible clients in legislatively authorized areas of representation.
- **Grange Contract.** The Washington State Grange administers a contract required as a result of a legislative budget proviso attached in the 2004 supplemental session and carried forward in the 2005-07 biennial budget. This proviso requires that \$100,000 of the appropriation to the Office of Civil Legal Aid be used to contract with a general farm organization with members in every county of the state to develop and administer an alternative dispute resolution program to resolve disputes between farmers and farm workers. Following a competitive process, the agency which had responsibility for civil legal aid funding prior to the establishment of the OCLA – the Department of Community, Trade and Economic Development – selected the Grange to run this program. The Alternative Dispute Resolution System (ADRS) is staffed in-house by the Grange and works under the auspices of a Joint ADRS Oversight Board which includes representatives from the Grange, the Washington Growers' League, the Growers' Clearinghouse, the United Farm Workers of America, Northwest Justice Project, Columbia Legal Services as well as an agricultural employee.

The ADRS program has been up and running for about two years. The Grange hired Javier Barajas to staff the program following Meggan Stein's departure. To date, few cases have been referred to the program, but those that have been have been successfully resolved. During this past quarter, the OCLA Director worked with Grange staff and

representatives of the Washington State Human Rights Commission (HRC) to provide a mechanism for referral of certain HRC cases filed by farm workers to the ADRS for mediation. In addition, the Office of Civil Legal Aid included in its contract a requirement that the Grange secure an independent third-party assessment of the value of the program and its potential future viability. The Grange hired an independent consultant to perform this evaluation, and a formal report is due by November 2006.

9. Other Matters

During this period, the OCLA Director was involved in the following additional activities:

- Completion and submission of the final report and recommendations of the ATJ Technology Principles Implementation Committee. (Tab A-6)
- Initiation of communications with the Judicial Information Services Committee (JISC) to secure a waiver of set-up and transactional fees for qualified civil legal aid providers (as defined by APR 8(e)).
- Participating on the ATJ Board's Technology Committee which is working to revise and upgrade its Technology Plan.
- Facilitating effective inclusion of state-funded civil legal aid providers in the work of the Washington State Gender and Justice Commission.
- Working with the Washington State Department of Information Services (DIS) to develop a template and content for the OCLA's website (to be up before December 31, 2006). To ensure that the OCLA site is properly targeted and not-duplicative of other civil legal aid-related websites, the OCLA has formally asked for input from the ATJ Board's Statewide Website Advisory Group (SWAG).
- General administrative responsibilities associated with the operation of the Office of Civil Legal Aid.
- Consulting regularly with and providing staff support to Judge Allan and other Oversight Committee members and working groups, as appropriate.